



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/928,982	08/13/2001	Jonathan Leblang	AMAZON.062A1	7735

20995 7590 05/01/2008
KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

EXAMINER

BORLINGHAUS, JASON M

ART UNIT	PAPER NUMBER
----------	--------------

3693

NOTIFICATION DATE	DELIVERY MODE
-------------------	---------------

05/01/2008

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

jcarter@kmob.com
eOAPilot@kmob.com

Office Action Summary	Application No. 09/928,982	Applicant(s) LEBLANG ET AL.	
	Examiner JASON M. BORLINGHAUS	Art Unit 3693	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 January 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-36 and 54-58 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-36 and 54-58 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>10/11/07</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

Applicant's election without traverse of 1 – 36 and 54 - 58 in the reply filed on 1/09/08 is acknowledged.

Nonetheless, the Examiner would like to explain further his restriction requirement filed on 12/27/07.

Claim 1 (Group 1) is for a payment system "used to make payments that are not associated with sales transactions." Later dependent claims do not deviate from this concept.

Claim 42 (Group 2) is for a payment system "to permit consumers of the [artistic] work to make donations to the creator of the work." However, later dependent claims (Claims 50 – 52) direct consumers to copies of the artistic works of the artist, the direction being based upon the consumer's donation level.

Examiner assumes that this direction based upon the consumer's donation level is being considered a gift to the consumer by the Applicant, akin to a tote bag being given to a donor for a public television telethon. However, other Examiners felt that the meaning behind this "direction" is subjective. An alternate interpretation proposed is that the consumer is paying for preferential access to the artistic works of the artist, such as a server with quicker downloads.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1, 19, 20, 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Conklin (US Patent 6,336,105) in view of Miller (PG Pub 2001/0051875).

Regarding Claims 1 and 19, Conklin discloses a server system for providing a user-to-user to user payment service comprising:

- a pay page generation module (such as remote authoring templates) which provides functionality for payees (sellers) to remotely generate, via a web browser, customized pay pages for receiving payments from others (buyers). (see abstract; fig. 4a – 4b; fig. 10-3; col. 27, line 6 – col. 28, line 7);
- a server that provides access to a plurality of payee-specific (seller-specific) pay pages generated using the pay page generation module (remote authoring capabilities), each pay page corresponding to a respective payee

- (seller), and being accessible at a respective Uniform Resource Locator (URL) that contains an identifier of the respective payee (brand identifications through individual URLs), said URLs of the pay pages otherwise being identical, wherein the pay pages include functionality for allowing pay page visitors (buyers) to enter payment amounts (desired price) and to initiate payments to corresponding payees (sellers). (see fig. 1 & 7; col. 18, lines 52 – 60; col. 26, line 56 – col. 27, line 5); and
- a transaction processing module (application) which is responsive to a payment request, said payment request initiated by a visitor (buyer) using a pay page (webpage) accessed via said server, by transferring funds from an account of the visitor (cardholder's account) to an account of a payee (merchant account) associated with accessed pay page (webpage). (see col. 4, line 62 – col. 5, line 27; fig. 7).

Conklin does not explicitly disclose that the payments made through the system are not associated with sales transactions. However, Examiner would like to point out that the actual claim language states that the pay pages "are capable of being used" for that function. Examiner asserts that the pay pages, as disclosed by Conklin, are capable of being used for that function, as the pay pages are capable of processing payments.

Conklin does not teach a system wherein at least one of the pay pages is provided in association with a work of the payee to permit consumers of the work to make donations to the payee.

Nonetheless, Miller (PG Pub. 2001/0051875) discloses a method for making payments (donations) that are not associated with sales transactions and wherein at least one the pay pages is provided in association with a work of the payee to permit consumers of the work to make donations to the payee. (see abstract; fig. 5 - 6).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Conklin by incorporating the features, as disclosed by Miller, to allow for transfer of payment not associated with a sales transaction, thereby allowing for the transfer of payment for charitable or donation purposes.

Regarding Claims 20 and 23, such claims recite similar limitations as claimed in previously rejected claims, would have been obvious based upon previously rejected claims, or are otherwise disclosed by the prior art applied in previously rejected claims. Such claim limitations are therefore rejected using the same art and rationale as previously utilized. Applicant is reminded that any argument contrary to such an interpretation is an indication of patentably distinct subject matter that may warrant a restriction requirement.

Claims 2 – 11, 21 – 22, 24 – 26 and 32 - 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Conklin and Miller, as in Claims 1 and 20 above, and in further view of **Official Notice** and Kirsch (US Patent 5,751,956).

Regarding Claim 2 – 11, Conklin discloses a system:

- wherein the pay page generation module includes functionality for payees (sellers) to specify suggested payment amounts (catalog prices) to be displayed in their pay pages (web pages) and used as default (catalog) payment amounts. (see fig. 1, 7 & 31b; col. 19, lines 47 - 52);
- wherein the pay page (web page) generation module (application) includes functionality for a payee (seller) to specify a textual message (“Exports, Inc....”) and an image (buttons) to be displayed within a pay page (webpage). (see col. 27, lines 6 – 24; fig. 31a – 31b);
- wherein the pay page (webpage) generation module includes functionality for a payee (seller) to specify, for a particular pay page, a URL of a second page to be displayed to a visitor (order URL) upon completion of a payment transaction. (see fig. 17 – 19);
- wherein the server system hosts a web site that provides remote interactive access to the pay page generation module and to the payee-specific pay pages, said website including functionality for a payee to register with the payment service, to create one or more customized pay pages, and to specify a bank account to which payments collected via the one or more customized pay pages are to be transferred. (see col. 4, line 62 – col. 5, line 27; col. 27, line 6 – col. 28, line 7);
- further comprising a payment request module which provides functionality for generating and sending a payment request email message to a payer (fig. 11a) in response to payment request information (acceptance) entered by a

- payee (seller), wherein the email message includes a link (URL) to a pay page (web page) of the payee and includes at least one parameter specifying how a display of the pay page (web page) of the payee (seller) is to be customized for the payer (such as retrieving payer-specific payment documentation). (see fig. 7; fig. 11a-1 – 11a-3; fig. 16 - 18; col. 26, line 56 – col. 27, line 5);
- further comprising a plurality of pay page (web page) templates used by the pay page (web page) generation module to generate pay pages (web pages), wherein each pay page template specifies a pay page layout and behavior. (see col. 27, lines 6 – 24).
 - further comprising a pay page (web page) display module (application) which customizes the display of the pay pages (web pages) in response to page requests from visitors. (based upon request of requestor, such as selection of a hyperlink). (see col. 32, lines 39 – 53); and
 - wherein the pay page (webpage) display module is responsive to a parameter (visitor selection) passed to the server system with a visitor request for a pay page (webpage) by customizing the pay page (webpage) according to the parameter (selection) wherein the parameter specified a payment amount to be displayed within the pay page (webpage). (see fig. 32).

Conklin does not teach wherein the pay page generation modules includes functionality for payees to specify a display color of the pay page; the second page is an

external page that is not served by the server system, and the system is responsive to completion by redirecting a browser of the user to the URL of the external page.

Examiner takes **Official Notice** that web page generation applications inclusion of a functionality for a designer to specify a color of the web page are all old and well known in the arts of online environments and e-commerce.

Kirsch discloses a system wherein the second page (post-redirection website) is an external page (on second server system) that is not served by the server system (the web server system), and the system is responsive to completion by redirecting a browser of the user (client system) to the URL of the external page (post-redirection website).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Conklin and Miller by incorporating features of web page design such as color selection, as is old and well known, as such is a standard and convention feature of web page design.

It would have been obvious to one ordinary skill in the art at the time the invention was made to have modified Conklin, Miller and Official Notice by incorporating the linkage of webpages and redirection of visitors between webpages, as disclosed by Kirsch, allowing for the system to be decentralized and distributed over several servers.

Regarding Claim 22, Conklin discloses a method wherein initiating the payment transaction comprises prompting the visitor to sign-in (identity validation). (see col. 30, lines 21 – 34).

Regarding Claims 21, 24 – 26 and 32 – 36 such claims recite similar limitations as claimed in previously rejected claims, would have been obvious based upon previously rejected claims, or are otherwise disclosed by the prior art applied in previously rejected claims. Such claim limitations are therefore rejected using the same art and rationale as previously utilized.

Claims 12 – 18, 27 – 31 and 54 - 58 are rejected under 35 U.S.C. 103(a) as being unpatentable over Conklin and Miller, as in Claims 1 and 20 above, and in further view of Official Notice and (Gralla, Preston. *How The Internet Works. Millennium Edition. Que.* 1999. pp. vi – 324).

Regarding Claims 12 – 18, Conklin further discloses a system:

- comprising a pay box (hyperlink) generation module (application) which provides functionality for a payee (sellers) to remotely generate a pay box (hyperlink) to be installed within external web pages (external website) to provide a link to a pay page (community webpage) of the payee (seller), wherein the pay box (hyperlink) includes a display object (images/buttons). (see col. 22, lines 44 – 58; col. 27, 8 – 15; col. 32, lines 39 – 53);
- and an object server (server) that \generates and serves the display object (images/buttons) for display within the external web pages (external website), wherein the object server (server) customizes the pay box display objects for visitors (retrieves based upon request of requestor). (see col. 27, 8 – 15; col. 32, lines 39 – 53);

- wherein the pay box (hyperlink) generation module (application) automatically generates a code sequence (HTML code) which may be incorporated into an external web page (external webpage) to install a pay box (hyperlink). (see col. 22, lines 44 – 58; col. 27, 8 – 15; col. 32, lines 39 – 53);
- further comprising a link (hyperlink) generation module (application) which provides functionality for payees (sellers) to define links (hyperlinks) to their respective pay pages (webpages) and to make such links (hyperlinks) available, via the server system, to locate and install within external web pages (external websites). (see col. 22, lines 44 – 58; col. 27, 4 – 24; col. 32, lines 39 – 53);
- further comprising a link (hyperlink) generation module (application) which generates a link (hyperlink) to a payee's pay page (web page) for incorporation into an external web page (external website), wherein the link (hyperlink) generation module (application) provides an option (selection) for the payee (seller) to specify at least one type of parameter (template feature) for customizing (remote authoring) the pay page (web page) for visitors that access the pay page (web page) from the link (hyperlink). (see col. 22, lines 44 – 58; col. 27, 4 – 24; col. 32, lines 39 – 53).

Conklin does not teach a system wherein the pay page generation module provides an option for payees to display real time payment counters within their pay pages, said real time payment counters indicating total monetary amounts collected

Art Unit: 3693

from users via the corresponding pay pages; wherein the object server customizes content of the display object according to identities of recognized visitors; nor where

Examiner takes **Official Notice** that usage of real time counters on websites is old and well known in the art of information systems; the payment of a fee for referrals and commissions; and the tracking of such referrals by identifiers to enable such payment of a fee are old and well known in the arts of online environments and e-commerce.

Gralla discloses a system:

- wherein the object server (web server) customizes the content of the display object (displayed screen) according to identities of recognized visitors (as identified by cookies). (see pp. 290 – 297); and
- wherein the module includes within the coding an identifier (cookie) of the user, and the transaction processing module uses the identifier (cookie) to track resulting referrals (“where people come to the site from”) of visitors to a corresponding webpage. (see pp. 260 –269; 290 – 297).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Conklin and Miller by incorporating the methodologies, as are old and well known, as is standard and conventional in the construction, operation and management of an online environment.

While such meters may not display total monetary amounts collected from users via the corresponding pay pages, it would have been obvious to one of ordinary skill in

Art Unit: 3693

the art that the meter could be utilized to display any cumulative amount that the inventor desired, such as visitors to a website or money raised, such as traditionally done during telethons. *In re Kuhle*, 526 F.2d 553, 555, 188 USPQ 7, 9 (CCPA 1975).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Conklin and Miller by incorporating the methodologies, as are old and well known, as is standard and conventional in the construction, operation and management of an online environment.

Regarding Claims 54 – 56, Conklin discloses a server system further comprising:

- wherein each pay page consists of a URL; and
- further comprising a pay page search engine that provides functionality for users to search for pay pages of other users based on payee criteria, said pay page search engine including a user interface having at least one search field that corresponds to a particular type of payee criteria. (see col. 10, lines 25 - 48; col. 19, lines 25 - 43 - It is inherent that a search engine, such as those recounted by Conklin, possess a user interface for submitting a criteria by which to search for a specific page).

Conklin does not teach a server system wherein each pay page URL contains an email address of the respective payee; the pay page search engine provides an option to search specifically for associate-enabled pay pages to which associates can refer users in exchange for commissions on resulting payments; nor hosting the plurality of payee-specific pay pages comprises using a pay page URL naming convention in which

each pay page has a unique URL that includes (1) a fixed portion that is the same for all of said payee-specific pay pages, and (2) a variable portion that consists of a user identifier of a corresponding payee.

Gralla discloses a server system wherein:

- hosting the plurality of payee-specific pay pages comprises using a pay page URL naming convention in which each pay page has a unique URL that includes (1) a fixed portion that is the same for all of said payee-specific pay pages (first portion pertaining to transport protocol, second portion pertaining to a host computer), and (2) a variable portion that consists of a user identifier of a corresponding payee. (third portion pertaining to a specific website). (see pp. 155 – 157).

Examiner takes **Official Notice** that associate-enabled web pages in which associates can refer users to a web page in exchange for commissions on resulting payments either as referral fees or click-throughs are old and well known in the art of online business.

It would have been obvious to one ordinary skill in the art at the time the invention was made to have modified Conklin and Miller to incorporate the standard conventions utilized in URLs, as disclosed by Gralla, allowing for traditional and standard usage of URLs in a networked environment.

Neither Conklin, Miller nor Gralla teach utilizing an email address within a web page's URL. However, Gralla discloses that a URL includes a variable portion that

functions as an identifier (see pp. 155 - 157) and the usage of an email address to identify users on a network (see pp. 17 – 19).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified Conklin, Miller and Gralla allow for any identifier to be utilized within the URL that the inventor desired, such as an email address. *In re Kuhle*, 526 F.2d 553, 555, 188 USPQ 7, 9 (CCPA 1975).

Neither Conklin, Miller nor Gralla teach utilizing a search engine to specifically search for associate-enabled web pages. However, usage of search criteria within a search engine is inherent in their functionality. Furthermore, Gralla discloses utilizing a search engine to search for web pages that satisfy specific criteria. (see pp. 185 - 187).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified Conklin, Miller and Gralla allow for any search criteria to be utilized by the search engine that the inventor desired, such as whether the website was associate-enabled. *In re Kuhle*, 526 F.2d 553, 555, 188 USPQ 7, 9 (CCPA 1975).

Regarding Claims 27 – 31, such claims recite similar limitations as claimed in previously rejected claims, would have been obvious based upon previously rejected claims, or are otherwise disclosed by the prior art applied in previously rejected claims. Such claim limitations are therefore rejected using the same art and rationale as previously utilized.

Response to Arguments

Applicant's arguments with respect to pending claims have been considered but are moot in view of the new ground(s) of rejection.

Official Notice

In response to the applicant's traversal of Official Notice finding(s) in previous office action, Examiner asserts that the traversal is inadequate. Adequate traversal is a two-step process. First, applicant(s) must state their traversal on the record. Second and in accordance with 37 C.F.R. 1.111(b) which requires applicant(s) to specifically point out the supposed errors in the Office Action, applicant(s) must state why the Official Notice statement(s) are not to be considered common knowledge or well known in the art.

In this application, while applicant(s) have clearly met step (1), applicant(s) have failed step (2) since they have failed to argue why the Official Notice statement(s) are not to be considered common knowledge or well known in the art. Because Applicant(s)' traversal is inadequate, the Official Notice statement(s) are taken to be admitted as prior art. See MPEP 2144.03.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason M. Borlinghaus whose telephone number is (571) 272-6924. The examiner can normally be reached on 8:30am-5:00pm M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Kramer can be reached on (571) 272-6783. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you

Art Unit: 3693

have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/James A. Kramer/
Supervisory Patent Examiner, Art Unit 3693

/Jason M Borlinghaus/
Examiner, Art Unit 3693
April 25, 2008